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No. 06-1443

FILED
JUN 6 - 2007
OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE

Supreme Court of the United States

CAROL BILLIE OSHANA,
on behalf of herself and all others similarly situated,

Petitioner,

v.

COCA-COLA COMPANY, A Delaware corporation,

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

SUPPLEMENTAL BRIEF FOR PETITIONER

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Since the filing of petitioner Carol Billie Oshana's ("Petitioner") Petition for a Writ of *Certiorari*, a new development has occurred which further compels that the Court grant *certiorari*. As Petitioner noted in her opening brief, the Opinion of the Seventh Circuit Court of Appeals, "if left standing, would wreak havoc with the established clarity on this fundamental issue of federal jurisdiction." Cert. Petition at 4. Havoc has commenced.

On June 1, 2007, in *Oshana v. PepsiCo*, No. 07 CV 352, pending in the United States District Court for the Northern District of Illinois, the court held that the Seventh Circuit "has ruled that the *ability to amend* was enough to establish removability," and thus, it was compelled to remand the case. *See* Order at 1 (Moran, J., June 1, 2007) (emphasis added), at Appendix 1. Such a ruling is now viewed as required in the Seventh Circuit by a judge as learned as Senior District Court Judge James B. Moran. So strong is the impact of the Seventh Circuit's Opinion that the current denial of remand occurred even though Judge Moran had previously granted two motions to remand that very case. As set forth in Plaintiff's Petition for a Writ of *Certiorari*, that conclusion is contrary to the multitude of statutes, rules, and precedent dealing with federal jurisdiction. If left unattended, it will cause serious damage to established principles of federal jurisdiction, foster uncertainty and inequality in the application of the law, and will leave standing a glaring split between the Circuit Courts of Appeals.

CONCLUSION

For the reasons stated, Petitioner Carol Billie Oshana respectfully requests that the Court accept review of this legal controversy, and further requests an Order 1) reversing the judgment of the Seventh Circuit affirming removal of her case to federal court based on the jurisdictional amount in controversy being in excess of $75,000, and 2) remanding this case to the Circuit Court of Cook County, Illinois, for further proceedings on Petitioner's state law claims.

Respectfully submitted,

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APPENDIX

APPENDIX — MEMORANDUM OPINION AND ORDER OF THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION DATED JUNE 1, 2007

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS EASTERN DIVISION

No. 07 C 352

CAROL BILLIE OSHANA, on behalf of herself and all others similarly situated,

Plaintiff,

vs.

PEPSICO, INC., a North Carolina corporation,

Defendant.

MEMORANDUM OPINION AND ORDER

Plaintiff moves for reconsideration of the denial of her motion to remand. That motion is denied. The Court of Appeals has ruled that the ability to amend was enough to establish removability. And while the third removal was well over a year later, we think the rather peculiar circumstances satisfy the catchall provision of Rule 60(b)(6) of the Federal Rules of Civil Procedure, because the removal was shortly after the ruling in Judge Conlon's case. The bottom line is that two almost identical cases were headed in different directions, the Court of Appeals determined what it considered to be the appropriate direction, and this case should follow that same direction.

Appendix

s/ James B. Moran
JAMES B. MORAN
Senior Judge, U. S. District Court

June 1, 2007.